

REMARKS

This responds to the Office Action mailed on July 3, 2007.

Claims 1, 9, 11, 22 and 29 are amended, claims 2-8 and 13-14 are canceled, and no claims are added; as a result, claims 1, 9-12 and 15-29 are now pending in this application.

Claims 1, 9, 11, 22, and 29 have been amended to clarify that the received portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item.

Support for amendments may be found in the specification at least at page 3, lines 6-17 and at page 8, lines 5-12.

§102 Rejection of the Claims

Claims 1 and 9-10, 15-19, 21-26 and 28 were rejected under 35 U.S.C. § 102(e) for anticipation by Levy (U.S. 6,505,160).

"Content Item" in the Claims Versus "Context Information" in Levy

The Office action cites Figure 1 in Levy to show "rendering of a **content item**." It is respectfully requested that Examiner explain which specific element in Figure 1 is considered to correspond to the "content item."

In order to show the feature of "the received portion of the **content item** being distinct from an identifier associated with the **content item**," the Office action recites Levy disclosing the *context* information that may relate to a user, the user's device, etc. (Levy, 4: 40-56 and 3: 24-64).). Throughout the description, Levy discusses media content, identifiers associated with media content, and context information. Specifically, Levy explains that media *content* may be in the form of music and movies (Levy, 1: 34-35). Levy continues with an example of media content, in the form of an audio object, that may have an associated *identifier* and describes techniques to associate an identifier with an audio object (Levy, 2: 22-33). Levy also discusses *context* information that pertains to the environment, in which media content may be utilized,

e.g., the user's device, the details of the playback session, etc. (Levy, 4: 40-48). Thus, as explained in Levy, the terms "content," "identifier," and "context" cannot be used interchangeably, according to Levy. Thus, the discussion of *context* cited in the Office action is not relevant to the feature of "the received portion of the **content item** being distinct from an identifier associated with the content item," recited in claim 1. It is submitted that Levy fails to disclose or suggest this feature. This argument, presented in the previous response that was filed on April 2, 2007, was not addressed in the Response to Arguments section of the Office action mailed on July 3, 2007.

The Feature of "Processing, at the Server System, the Received Portion of the Content Item in Order to Determine an Identifier"

In the Response to Arguments section, Examiner noted the following description in Levy as teaching determining an identifier associated with a content item at the server.

"*Based on identifier* and optional context information, the server determines an associated action to perform, such as re-directing an identifier or context data to another server ... The server may look up related data *based on the identifier* alone, *or based on the identifier* and other context information. Context information may be information provided by the user, by the user's computer or device, or by some other process or device."

Levy, 4: 40-56, emphasis added.

As is evident from the passage above, Levy does not mention determining an identifier by processing a received content. On the contrary, the look-up and the determining of an associated action to perform is *based on the identifier* that was already provided to the server.

It is submitted that an operation of **processing, at the server system, the received portion of the content item in order to determine an identifier** (as recited in claim 1), is distinct from an operation of performing a look up in a database *based on an identifier that has already been provided to the server* (as in Levy).

In the Response to Arguments section, Examiner stated that the term "processing" is very broad and therefore the steps of performing a look-up in Levy read on the feature of "processing, at the server system, the received portion of the content item in order to determine an identifier." While a "look-up" operation in Levy may be considered as an example of processing, a look-up operation in Levy is not an operation of processing the content item to determine an identifier. In fact, there is no indication in Levy that the look-up that is based on the received identifier involves any accessing of the content item itself, much less any processing of the content item.

Another section in Levy (col. 13, lines 50-67) produced in the Response to Arguments section is related to performing database look up to uniquely identify a media object *based on distributor/broadcaster ID and other context information*. Here, again, there is no indication that the look-up involves any accessing of the content item itself, much less any processing of the content item. As discussed above, the reference to "context information" in Levy is not relevant for the purposes of showing a "content item" recited in the claims.

Thus, Levy fails to disclose or suggest the feature of "processing, **at a server system**, the received portion of the content item **to determine, from the received portion of the content item, the identifier associated with the content item,**" recited in claim 1. Because Levy fails to disclose or suggest each and every element of claim 1, and in fact teaches away from the features of claim 1, claim 1 and its dependent claim are patentable and should be allowed.

Claim 9 recites a server system "to receive a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item" and "to process the received portion of the content item to obtain determine, from the received portion of the content item, the identifier associated with the content item." Thus, claim 9 and its dependent claims are patentable for at least the reasons articulated above with respect to claim 1.

Claim 11 recites "receiving, at a server system, a media object, the media object being distinct from an identifier for the media object; calculating a hash for the received media object" and "processing, at a server system, the media object to determine an the identifier for the media object utilizing the calculated hash value." Thus, claim 11 and its dependent claims are patentable for at least the reasons articulated above with respect to claim 1.

Claim 22 recites a machine-readable medium having stored thereon data representing sets of instructions which, when executed by a machine, cause the machine to “receive, at a server system, a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item a portion of the content item from a client system” and “process, at a server system, the received portion of the content to determine, from the received portion of the content item, the identifier associated with the content item.” Thus, claim 22 is patentable for at least the reasons articulated above with respect to claim 1.

§103 Rejection of the Claims

Claims 11-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levy in view of Herz (U.S. 2001/0014868).

Claims 20 and 27 were rejected under 35 USC § 103(a) as being unpatentable over Levy et al. in view of Herz et al.

Although Herz discloses offering a coupon for a related item *responsive to a completion of a sale* (Herz, P 267, 268, 270), Herz, whether considered separately or in combination with Levy, fails to disclose or suggest transmitting an electronic offer to sell **in response to the receiving of the media object utilizing the determined identifier**, as recited in claim 11.

In the Response to Arguments section, Examiner stated that the references were attacked separately, where the rejection was based on the combination of Levy and Hertz. It is submitted that the Office action, while addressing the feature of "transmitting an electronic offer to sell," failed to address the feature of "**in response to the receiving of the media object utilizing the determined identifier**" that qualifies the operation of the transmitting of an electronic offer to sell. The Office action does not specify where this feature is disclosed in Levy. Neither does the Office action specify where this feature is disclosed in Hertz.

Thus, it is maintained that, because the combination of Levy and Herz fails to disclose or suggest each and every element of claim 11, claim 11 and its dependent claim 12 are patentable and should be allowed.

Claims 20 and 27 recite an offer to sell being a portion of the further information that is to be transmitted to the client system. Thus, claims 20 and 27 are patentable in view of the combination of Levy and Herz and should be allowed for at least the reasons articulated with respect to claim 11.

Furthermore, as discussed above, Levy, fails to disclose or suggest “receiving, at a server system, a portion of the content item from a client system” and “processing, at a server system, the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item,” as recited in claim 1. Levy also fails to disclose or suggest, as discussed above, a server system “to receive a portion of the content item from a client system” and “to process the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item,” as recited in claim 9. Herz, whether considered separately or in combination with Levy, fails to disclose or suggest these features. Thus, claims 20 and 27 are patentable in view of the combination of Herz and Levy also by virtue of their being dependent on claims 1 and 9 respectively.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date October 22, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22 day of October, 2007.

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Signature [Handwritten Signature]